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10/553,093	10/13/2005	Ruedi Leutert	27793-00103USPX	6622
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WINSTEAD PC			MCPARTLIN, SARAH BURNHAM	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/553,093

Applicant(s)

LEUTERT, RUEDI

Examiner

Sarah B. McPartlin

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings were received on July 12, 2007. These drawings are acceptable.

Specification

2. The use of the trademark VECLRO has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Objections

3. Claims 8-9 are objected to because of the following informalities: The phrase "the detachable connections" (claim 9, line 2) lacks sufficient antecedent basis. Claim 9 is objected to as being dependent upon an objected base claim. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3636

5. Claims 5, 7, 9-10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 states "the closure element is connected detachably...to an underside of a seating area...and positions the child seat in an opened state" in lines 3-5. It is not clear how the closure element "positions the child seat in an opened state." Did Applicant intend to state that the release of closure element allows for the child seat to be positioned in the opened state? Clarification is required.

Claim 7 recites "a part of an envelope projects as a pocket into an opening and wedges and positions the child seat" in lines 2-3. This phrase is not clear. Did Applicant intend to state that in a pressurized state an envelope extends from part of the inflatable back part or inflatable seat cushion into the opening and wedges the child seat in position? Clarification is required.

Claim 9 contains the trademark/trade name VELCRO. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the

Art Unit: 3636

present case, the trademark/trade name is used to identify/describe a hook and loop fastener and, accordingly, the identification/description is indefinite.

Claim 9 states that "the detachable connections are produced by Velcro fastening or press-studs." A detachable connection has not been positively claimed. It is only presented as a possible configuration in claim 8. It appears as if claim 9 should first positively state the detachable connection by stating - - the seating cushion and the back part are connected detachably to one another - - and then describe the configuration of the detachable connections.

Claim 10 states that the child seat is adapted to a child's physical dimension "by incorporating different sizes and shapes of the seating cushion and the back part." It is not clear what is meant by the phrase "incorporating different sizes and shapes of the seating cushion and the back part." Did Applicant intend to state the seating cushion and back part are sized and shaped to accommodate a child seat occupant?

Clarification is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3-5, 10 and 14-15 are rejected as best understood with the above cited indefiniteness under 35 U.S.C. 103(a) as being unpatentable over Harmon (5,161,855)

Art Unit: 3636

in view of Bruhnke et al. (5,516,188). Harmon discloses a child seat (28)(30)(32) for vehicles comprising: a seating cushion (30); a back part (32); wherein the seating cushion (30) and back part (32) can be stowed in a vehicle interior in a space saving manner; wherein the child seat (28)(30)(32) can be stowed in an opening (58) in the vehicle interior, wherein the opening (58) is adapted to be arranged in a backrest (12) of a vehicle seat (10). The opening (58) can be closed with a closure element (60)(61) in a flush and form-fit manner. The closure element (60)(61) is connected permanently to an underside of a seating area of the child seat (28)(30)(32) and positions the child seat in an opened state. The child seat (28)(30)(32) is adapted to a child's physical dimensions by incorporating different sizes and shapes of the seating cushion (30) and the back part (32).

Harmon does not disclose a seating cushion and a back part that are inflatable.

Bruhnke et al. discloses a child seat (1) for placement on a vehicle seat (un-illustrated). The child seat (1) comprises an inflatable seating cushion (14) and an inflatable back part (9) wherein the seating cushion (14) and the back part (9) unfold automatically in the presence of pressurization. The child seat (1) can be emptied by way of a "negative-pressure generator" (column 1, line 44) or vacuum pump. A control device (6) represents a "switching valve" or directional control valve and the ambient air serves as a pressure gas store. A fabric cover covers at least the backrest and the seat cushion (column 1, lines 63-64).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to replace the seat cushion (30) disclosed by Harmon, with the

inflatable seating device (1), shown in Figure 1, taught by Bruhnke. Such a modification would enable the seating device to be removed from the vehicle, broadening the potential uses for the device.

8. Claim 6 is rejected as best understood with the above cited indefiniteness under 35 U.S.C. 103(a) as being unpatentable over Harmon (5,161,855) in view of Bruhnke et al. (5,516,188) as applied to claim 1 above, and in further view of Artz (5,292,176). As disclosed above, Harmon, as modified with the exception of a recess present on at least one side in a shoulder region of the child seat for receiving a seat belt.

Artz discloses an inflatable child seat with a recess (66) located at each side in a shoulder region of the child seat for accommodating a seat belt.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to incorporate recesses, as taught by Artz, in inflatable child seat disclosed by Harmon, as modified. Such a modification would encourage safety and the use of a harness type safety belt with the inflatable seat.

9. Claims 8-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harmon (5,161,855) in view of Bruhnke et al. (5,516,188) as applied to claim 1 above, and further in view of O'Neill et al. (5,678,891). As disclosed above, Harmon reveals all claimed elements with the exception of a seating cushion and a back part that are connected detachably via VELCRO fastenings and a control console with at least one switch.

O'Neill et al. disclose an inflatable back cushion (12) and seat cushion (14) that can be formed "as separate cushions that may or may not be connected, such as by snap connections or by releasable fabric, such as that known by the proprietary name VELCRO" (column 3, lines 15-18). The pressure within the inflatable back cushion (12) and seat cushion (14) is controlled via a switch located on pump assembly (78) and best depicted in Figure 1.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to form the seating cushion (14) and the back part (9), disclosed by Harmon, as modified, from two separate cushions connected via VELCRO. Such a modification would enable the inflatable seating element to be customized to the user requirements, thereby improving the comfort of the seat occupant.

Allowable Subject Matter

10. Claims 7 and 12-13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Amendment/Arguments

11. The amendment filed on July 12, 2007 has been considered in its entirety.

Applicant argues that Bruhnke fails to disclose a child seat that can be stowed in an opening in a vehicle interior, wherein the opening is adapted to be arranged in a backrest of a vehicle seat. A new rejection has been supplied above. Harmon

Art Unit: 3636

discloses a child seat that is disposed within an opening formed in the backrest of a vehicle seat. The Examiner contends in the instant rejection that it would have been obvious to replace the child seat cushion (30) disclosed by Harmon with the inflatable device disclosed by Bruhnke et al. since such a modification would provide for a removable child seat. The Examiner contends that the entire case taught by Bruhnke et al. is capable of being placed in the opening formed in the backrest disclosed by Harmon, and therefore the combination meets the requirement of the claim.

In light of the new rejections under 112 2nd paragraph set forth above, this action has been made NON-FINAL.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3636

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah B. McPartlin/
Patent Examiner
Art Unit 3636

SBM
September 3, 2007